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**From:** Kenny, Timothy (PLY) [/O=COMMONWEALTH OF MASSACHUSETTS/OU=MASSMAIL-01/CN=RECIPIENTS/CN=TIMOTHY.R.KENNY]  
**Sent:** 11/21/2011 8:30:14 PM  
**To:** Khan, Annie (DPH) [/O=COMMONWEALTH OF MASSACHUSETTS/OU=MassMail-01/cn=Recipients/cn=Annie.Khan]  
**Subject:** RE: quick question

Thank you Annie.

Your help, as always, is appreciated.

-----Original Message-----

From: Khan, Annie (DPH)  
Sent: Thursday, November 17, 2011 5:36 PM  
To: Kenny, Timothy (PLY)  
Subject: RE: quick question

You got it!!! This is a tough one. Ultimately, the confirmatory chemist determines what the substance contains. But in our lab, both chemist must agree to the findings (results).

The custodial chemist does the net weight and the color tests. If the substance is cocaine, the custodial chemist must also perform a microcrystalline test to determine L cocaine (naturally occurring cocaine). The custodial chemist determines that the sample is presumptively positive.

The confirmatory chemist will determine the components of the substance. They will be able to state if the substance is an illicit narcotic or not as well as if there are other diluents (adulterants). They will analyze the substance with a known standard.

If weight is not an issue, the confirmatory chemist can review the notes of the custodial chemist and testify to their finding.

But on the other hand, if the custodial chemist is trained in confirmatory chemistry, then they can review the GC/MS data and form their opinion. Confirmatory testing is reviewable data which is recommended by the SWGDRUG in order to analyze seized drugs.

I have either answered your question or confused you. It may be easier to answer your question by phone, give me a call on my cell @ [REDACTED]

Annie

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From: Kenny, Timothy (PLY)  
Sent: Thursday, November 17, 2011 3:41 PM  
To: Khan, Annie (DPH)  
Subject: quick question

Hi Annie,

This is something you've told me before, but I'm just second guessing myself. The primary chemist is listed first (to the left) on the drug cert, and the secondary chemist is listed second (to the right), is that correct? And who forms the ultimate opinion on their own data?

Just trying to figure out if I need to prepare a motion for substitute chemist on a case (not involving you).

Thank you for your help,  
Tim

Tim Kenny  
Assistant District Attorney  
Plymouth County  
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